IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

OP.No. 38318 of 2002(J)

PETITIONER:

KUMARAKAM GRAMA PANCHAYAT,
KUMARAKAM P.O., KOTTAYAM-686 563,
REPRESENTED BY ITS PRESIDENT.

BY ADV. SRI.K.JAJU BABU

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT OF KERALA,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVT.SECRETARIAT, TRIVANDRUM.

2. THE DEPUTY DIRECTOR OF PANCHAYATS,
KOTTAYAM.

3. M/S. ALEX RESORTS AND HOTELS (P) LTD.,
KUMARAKAM P.O., KUMARAKAM, REPRESENTED BY ITS
MANAGING DIRECTOR.

R1&2 BY GOVERNMENT PLEADER SMT.SMITHA
R3 BY ADV. SRI.V.GIRI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 26/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.64618/2002 IN O.P. NO.38318/2002

DISMISSED:

26.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF ORDER DT.16.3.99 ISSUED BY TAXATION STANDING COMMITTEE OF THE PETITIONER.

P2: TRUE COPY OF APPEAL SUBMITTED BY R3 BEFORE THE PETITIONER DT.7.4.99.

P3: TRUE COPY OF JUDGMENT DT.11.5.99 IN O.P. 11558/99 OF THIS HON'BLE COURT.

P4: TRUE COPY OF ORDER DT.20.8.99 ISSUED BY THE PETITIONER.

P5: TRUE COPY OF APPEAL SUBMITTED BY R3 BEFORE THE PETITIONER DT.22.11.99.

P6: TRUE COPY OF ORDER DT.18.1.2000 ISSUED BY PETITIONER.

P7: TRUE COPY OF ORDER DT.4.10.99 ISSUED BY R2.

P8: TRUE COPY OF ORDER DT.31.10.2000 ISSUED BY R2.

P8(a): TRUE COPY OF APPEAL SUBMITTED BY R3 BEFORE R2 DT.21.9.2000.

P9: TRUE OCPY OF ORDER DT.19.7.2001 IN CMP NO.12615/2001 IN O.P. 7715/2001 OF THIS HON'BLE COURT.

P10: TRUE COPY OF ORDER DT.10.8.2001 IN CMP NO.32972/2001 IN CMP NO.12615/01 IN O.P. NO.7715/2001 OF THIS HON'BLE COURT.

P11: TRUE COPY OF JUDGMENT DT.18.9.2001 IN W.A. NO.3317/2001 OF THIS HON'BLE COURT.

P12: TRUE COPY OF REVISION PETITION SUBMITTED BY R3 B3FORE R2 DT.15.12.2001.

P13: TRUE COPY OF ORDER DT.4.2.2002 ISSUED BY R2.

P14: TRUE COPY OF REVISION PETITION SUBMITTED BY R3 BEFORE R1 DT.3.4.2002.

P15: TRUE COPY OF ORDER DT.18.10.2002 ISSUED BY R1.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 38318 OF 2002

Dated this the 26th day of March, 2007

JUDGMENT

Petitioner which is a Panchayat, is challenging Ext.P15 order of the Government whereunder the Government modified the assessment and demand of property tax by the Panchayat pertaining to third respondent's resort building. The main grievance of the petitioner is that third respondent had no dispute about assessment and demand of property tax for 1998-99 and 1999-2000 for which assessments have become final after modification was effected by the Panchayat committee in appeal. However, when third respondent challenged the assessment and demand of property tax for 2000-01 before the Director of Panchayats, he dismissed the same against which Ext.P14 revision was filed by the third respondent before the Government. Government proceeded to refix the tax for 1998-99 which was not under challenge at all. On going through Ext.P14, I find the claim of the Panchayat is justified because the challenge appears to be only against demand of tax modified by the Panchayat Committee for 2000-01. Since the Tribunal for Local Self Government has come into force before which

appeal is maintainable against the decision of the Panchayat Committee on tax matters as provided under Section 276(5) of the Act, I dispose of the O.P. setting aside Ext.P15 order of the Government, but leaving freedom to the third respondent to file appeal before the Tribunal under Section 276(8) of the Kerala Panchayat Raj Act within one month from date of receipt of this judgment. Since tax demanded for 1998-99 and 1999-2000 has become final, it is for respondents 1 and 2 to proceed for recovery of the said tax which remains uncontested by the third respondent. However, if the third respondent files appeal against the decision of the Panchayat committee against assessment and demand of tax for 2000-01, within the time stated above, then the Tribunal will entertain the same as one filed in time, hear the appellant and the Panchayat and dispose of the appeal on merits within three months thereafter. While Panchayat is free to recover entire arrears of tax upto 2000-01 and tax at pre-revised rates for 2000-2001 and subsequent years, there shall be stay against recovery of revised demand of tax for 2000-01 and subsequent years for four months from now. If appeal is filed as above, then recovery thereafter will be based on orders in

appeal, and if no appeal is filed, then the revised demand of tax for subsequent years will be recovered from the third respondent.

(C.N.RAMACHANDRAN NAIR)
Judge